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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,223	03/19/2001	Robert De Tullio	587-68-EPO/P	7727

23869 7590 01/23/2003

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EXAMINER
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BARNIE, REXFORD N

ART UNIT	PAPER NUMBER
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2643  
DATE MAILED: 01/23/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/701,223</b>	Applicant(s) <b>DE TULLIO ET AL.</b>
Examiner <b>REXFORD BARNIE</b>	Art Unit <b>2643</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Nov 26, 2002

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-13 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-13 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

R Barnie  
01/07/03

### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	6) <input type="checkbox"/> Other: _____

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## **DETAILED ACTION**

### ***Claim Rejections - 35 U.S.C. § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masukawa et al. (US Pat# 5,073,920, cited by applicant) in view of Egozi (US Pat# 5,465,287, cited by applicant).

Regarding claims 1, 8, 12 and 13, Masukawa et al. teaches a method and apparatus for measuring line characteristics or parameters associated with a subscriber telephone line comprising of being able to apply a first and a second AC test signals to lines respectively and then measuring the response in conjunction with the AC test signals (see fig. 3. Furthermore, according to Masukawa, impedance including resistance and capacitance can be determined from the measured AC voltages. Masukawa fails to teach testing by means of AC voltages at different frequency levels.

Egozi teaches a subscriber line impedance test/measurement device and method wherein a multi-frequency test signal is injected onto a subscriber line (see fig. 5) in order to measure a voltage response, analyze the voltage response and compute the subscriber line impedance (see column 5, column 3 lines 2 lines 20-49).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Egozi thus making it possible to use multi-frequency test signals in determining parameters associated with a subscriber loop/line and to take corrective measures, if necessary.

Regarding claim 2, The combination including Egozi teaches the possibility of testing at different frequency at a different period (see fig. 5).

Regarding claim 3, it's notoriously well known in the art to use a sinusoidal waveform test signals for the purpose of testing a subscriber line.

Regarding claim 4, the combination fails to put a restriction on the number of cycles which can be performed using each test signal and would have been obvious to use a number of test signal cycles to indeed verify accuracy of the test being performed..

Regarding claim 5, The combination including Masukawa teaches impedance components (see fig. 2) and (fig. 4 of Egozi).

Regarding claims 6-7, see the explanation as set forth in the rejection of claim 1.

Regarding claims 9-10, the combination teaches the claimed subject matter. (See Masukawa and Egozi).

Regarding claim 11, The combination including Egozi teaches the claimed subject matter (see column 2 of Egozi).

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***Response to Arguments***

3. Applicant's arguments filed on 11/26/02 have been fully considered but they are not persuasive. .

The applicant argued that the combination as set forth in the rejection of the claimed subject matter fails to render it obvious.

The examiner disagrees because the applicant has attacked the references individually when the explanation as set forth in the rejection of the claimed subject matter was based on a combination of references namely; Masukawa and Egozi. Masukawa teaches being able to send two test signals to a system via two different line wherein measurements can be taken and then used in analyzing parameters associated with the element tested but fails to teach the possibility of using a multi-frequency test signal as the testing signal. The examiner therefore has incorporate the teaching of Egozi which teaches the possibility of using a multi-frequency test signal. According to the applicant's disclosure, the test signals which can be applied at the same time could be in the form of a multi-frequency signal. Thus, the explanation as set forth in the rejection of the claimed subject matter is believed to be proper and permissible. The fact that the test on the respective lines is done sequentially is not implicitly directed to the claimed subject matter. Furthermore, the ability to test a plurality of lines either simultaneously or sequentially is well known in the art and not patentable.

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Newly submitted claims 14-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: sending a test signal to determine whether a line is capable of supporting digital services by detecting the presence of bridge taps, loading coils and so forth has a different classification 379/1.01. Furthermore, the claimed subject matter does not have sufficient support in the specification.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-20 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

*Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communication from the examiner should be directed to REXFORD BARNIE whose telephone number is (703) 306-2744. The examiner can normally be reached on Monday through Friday from 8:30 to 6:00p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708.

Any response to this action should be mailed to:

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or faxed to (703) 872-9314 and labeled accordingly (Please label  
**"PROPOSED/INFORMAL"** or **"FORMAL"**).

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 306-0377.

Rexford Barnie  
Patent Examiner  
RB 01/07/03

**REXFORD BARNIE**  
**PRIMARY EXAMINER**